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9 PVA APARTMENTS, LLC

10 UNITED STATES BANKRUPTCY COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

13 In the Matter of:

14 PVA APARTMENTS, LLC,

15 Debtor.

) CHAPTER 11

) Filing Date: October 18, 2014

) Case No. 14-44224

) **DEBTOR'S MOTION FOR ENTRY OF**  
) **ORDER (A) APPROVING**  
) **PROCEDURE TO SELL REAL**  
) **PROPERTY FREE AND CLEAR OF**  
) **ALL LIENS, CLAIMS,**  
) **ENCUMBRANCES AND INTERESTS,**  
) **AND (B) SCHEDULING AUCTION**  
) **AND HEARING TO APPROVE THE**  
) **SALE**

) Hearing Date: December 17, 2014

) Time: 2:00 PM

) Place: Courtroom 201

) US Bankruptcy Court

) 1300 Clay Street, Oakland, CA

) Judge: Honorable Roger L. Efremsky

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24 Debtor PVA Apartments, LLC (hereafter "Debtor") hereby moves this Court for an order  
25 pursuant to 363 of 11 U.S.C. §101 et seq. and Rules 2002, 6004, 6006 and 9014 of the Federal  
26 Rules of Bankruptcy Procedures approving (a) the Proposed Sales Procedure Motion (hereafter  
27 "Sales Procedure Motion"), and (b) scheduling the Auction and Sales Date Motion (hereafter

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MOTION FOR ENTRY OF AN ORDER (A) APPROVING SALE PROCEDURES IN CONNECTION WITH SALE OF CERTAIN  
PROPERTY LOCATED AT 2354 BONIFACIO ST. CONCORD, CA 94519, FREE AND CLEAR OF ALL LIENS, CLAIMS,  
ENCUMBRANCES, AND INTERESTS; (B) SCHEDULING AN AUCTION FOR AND HEARING TO APPROVE THE SALE

1 collectively “Auction and Sales Date Motion”). The property Debtor seeks approval to sell is a  
2 22 unit apartment building located at 2354 Bonifacio St., Concord, CA 94520 (hereafter  
3 “Bonifacio Property”).<sup>1</sup>

#### 4 5 **I. BASIS OF MOTION**

6 This Motion is based on the Declarations of Debtor owner Eric Terrell and Sydney Hall,  
7 Esq., proposed counsel for Debtor. The legal points and authorities supporting both this Auction  
8 and Sale Procedure Motion and the Sales Date Motion are combined as part of these papers filed  
9 herein. However, this Motion at this initial stage merely seeks the Court’s approval of the  
10 proposed bidding procedures, which will be conveyed to interested parties by formal notice in  
11 advance of the hearing for the Auction and Sales Date Motion.<sup>2</sup>

#### 12 13 **II. JURISDICTION AND GENERAL BACKGROUND**

14 The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 134. This  
15 matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding is proper  
16 in this district and before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

17 On October 18, 2014 (the “Petition Date”), Debtor PVA Apartments, LLC (hereafter  
18 “Debtor”), filed a voluntary petition for relief under Chapter 11 of the Code.

#### 19 20 **III. MOTION**

21 Debtor moves to sell the Bonifacio Property to Friedkin Investments for \$3,475,000.00.<sup>3</sup>  
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24 <sup>1</sup> The term Bonifacio Property includes any personal property that may be located therein and is more particularly described  
25 in Exhibit “A” attached hereto.

26 <sup>2</sup> In the Auction and Sale Date Motion, Debtor seeks Court authorization to sell the Bonifacio Property free and clear of all  
liens, claims, interests, and encumbrances, as well as all personal property of the Debtor located on the Properties, including but  
not limited to approximately twenty-two (22) stoves, refrigerators, and other items at the Bonifacio Property.

27 <sup>3</sup> See attached offer from Friedkin Investments attached hereto as Exhibit “B.”

1 At the time of filing this bankruptcy case, title of record for the Bonifacio Property was  
2 held in the name of PVA Apartments, LLC.<sup>4</sup>

3 Debtor requests permission to sell the Bonifacio Property for \$3,475,000.00. It is  
4 estimated there will be proceeds of approximately \$3,000,000.00 after closing costs.

5 The lienholders on the Bonifacio Property, who have all been served with this motion, are  
6 as follows:

- 7 • Concord Funding Group, LLC – First Mortgage \$9.5 million
- 8 • Agoura Hills Financial, Inc. – Second Mortgage \$625,000.00, and
- 9 • Contra Costa County – Property Taxes \$152,235.45

10 There is more than adequate protection for the lienholders set forth above if sale is  
11 permitted. Debtor proposes to sell the Bonifacio Property and use the proceeds as follows:

- 12 • Pay Concord Funding Group, LLC (most if not all of the proceeds)<sup>5</sup>
- 13 • Pay Agoura Hills Financial (attempt to negotiate payoff of this loan), and
- 14 • Pay Contra Costa County – full settlement of property tax debt

15 For almost two years Debtor has been trying to reorganize outside bankruptcy. First  
16 Debtor tried to sell the Bonifacio Property to cure arrears and bring the mortgages current.  
17 Thereafter, when the first mortgage lender refused to allow the sale, Debtor started marketing  
18 both the Bonifacio Property, as well as, the Mi Casa Property.

19 Debtor know moves for authority to sell the Bonifacio Property pursuant to this § 363  
20 motion because by selling such property Debtor would be in a position to further reorganize and  
21 propose a confirmable plan sooner rather than later.

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24 <sup>4</sup> At all times relevant herein, the Bonifacio Property, at issue in this motion, was owned by either Eric Terrell, individually,  
25 Condessa Terrell, individually and as settlor of the Condessa Trust, BEA East Apartments, LLC or Debtor PVA Apartments,  
26 LLC. Eric Terrell is owner of BEA East Apartments, LLC and Debtor PVA Apartments, LLC. For reasons which shall be  
27 explained via Declaration by Reginald Terrell, title of the property has changed hands several times but has remained in the  
28 Terrell family.

<sup>5</sup> Debtor has also offered to surrender such property to Concord Funding Group, LLC in exchange for a credit on the  
remaining mortgage balance.

1 Since Debtor has not earned any income over the past year Debtor requests authority to  
2 sell its smaller building (Bonifacio Property), which comprises less than half the estate value, to  
3 enable Debtor to proceed towards confirmation.<sup>6</sup>

4 Respectfully submitted,

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6 Dated: November 17, 2014

/s/ Sydney Hall  
SYDNEY HALL  
*Attorney for Debtor*

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26 <sup>6</sup>The principle objection repeatedly made by Concord Funding Group, LLC against approving the sale of the Bonifacio  
27 Property is that title on the property is clouded. Title issues can be resolved in escrow by the title company. Debtor's counsel is  
currently in the process of bringing in conflicts counsel to represent Condessa Terrell.